

REMARKS/ARGUMENTS

In the Decision of the Board of Patent Appeals and Interferences mailed May 31, 2009, claims 1-39 stand rejected under 35 USC §103. Claims 3 and 22 have been cancelled without prejudice and claims 1, 4, 5, 20, 23 and 24 have been amended. Accordingly, claims 1, 2, 4-21 and 23-39 are the only claims remaining in this application.

Applicants have filed concurrently herewith a Request for Continuing Examination (RCE) in view of the Board's Decision and specifically the fact that the Board did not follow the Examiner's interpretation of the Angelo reference and the related control value and instead interpreted the "condition" very broadly as being a "system request." In the Board's view, the "SMI" of Angelo was the "control value" and the Board found that the system request could be either a system request to assert some other interrupt (whereupon SMI would not be asserted and the monitoring function which is entry into SMM would not be allowable) or a system request to assert the SMI (which is the only system request disclosed).

Based on the Board's interpretation - which was separate and apart from the Examiner's view - one of ordinary skill in the art would have known that the processor also handles other system requests and thus both sets of system requests would be present and the "condition" could be interpreted as being any system request. While the Board did not specifically consider the additional limitations of claim 3 in which the conditions were limited to being a domain, mode or type of monitoring function, the Board's interpretation is believed reasonable (even though exceedingly broad). The Board did not specifically consider dependent claims 3 or 22, as the emphasis during prosecution was on the independent claims.

In view of the above, Applicants have incorporated the subject matter of claims 3 and 22 into independent claims 1 and 20, thereby defining “said condition comprising a respective one of a domain or mode that said processor is operating in or to a type of said monitoring function.” With the “condition” specifically defined in the independent claim in this manner, the Board should not now interpret the term as broadly as it did in the March 31, 2009 Decision. As a result of this amendment, there is believed to be no basis for any continued allegation that Angelo by itself, or in combination with other references, discloses or renders obvious the subject matter of independent claims 1 and 22 or claims dependent thereon.

In view of the above amendments to the independent claims and the above arguments distinguishing over the Board’s previous broad interpretation of the term “condition,” consideration of the patentability of the independent claims and claims dependent thereon as amended above over the Angelo reference is respectfully requested.

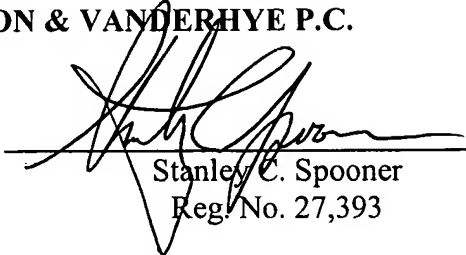
Having responded to all objections and rejections noted in the Decision of the Board of Patent Appeals and Interferences, it is submitted that remaining claims 1, 2, 4-21 and 23-39 are in condition for allowance and notice to that effect is respectfully solicited. In the event the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact Applicants’ undersigned representative.

WATT et al
Appl. No. 10/714,483
June 1, 2009

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____


Stanley C. Spooner
Reg. No. 27,393

SCS:kmm
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100